FILE COPY

FILED
FEB 27 1931

No. 552

In the Supreme Court of the United States

OCTOBER TERM, 1930

WILLIAM W. McBOYLE, PETITIONER

v.

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM SUBMITTED BY THE UNITED STATES GIVING EXTRACTS FROM RECENT FEDERAL STATUTES

In the Supreme Court of the United States

OCTOBER TERM, 1930

No. 552

WILLIAM W. McBOYLE, PETITIONER

v.

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM SUBMITTED BY THE UNITED STATES GIVING EXTRACTS FROM RECENT FEDERAL STATUTES

National Prohibition Act (approved October 28, 1919), c. 85, 41 Stat. 305, 315

SEC. 26. When the commissioner, his assistants, inspectors, or any officer of the law shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors

transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the provisions of this title in any court having competent jurisdiction; but the said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide the judgment of the court. The court upon conviction of the person so arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise, at said hearing or other proceedings brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and shall pay the balance of the proceeds into the Treasury

of the United States as miscellaneous receipts. All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken, or if there be no newspaper published in such city or county, in a newspaper having circulation in the county, once a week, for two weeks, and by handbills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the last publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and cost shall be paid into the Treasury of the United States as miscellaneous receipts.

Tariff Act of 1922 (approved September 21, 1922); c. 356, 42 Stat. 858, 885, 938, 948

TITLE I

Dutiable List

Section 1. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, there shall be levied, collected, and paid upon all articles when imported from any foreign country into the United States or

into any of its possessions (except the Philippine Islands, the Virgin Islands, and the islands of Guam and Tutuila) the rates of duty which are prescribed by the schedules and paragraphs of the dutiable list of this title, namely:

* * * * *

PAR. 369. Automobiles, automobile bodies, automobile chassis, motor cycles, and parts of the foregoing, not including tires, all of the foregoing whether finished or unfinished, 25 per centum ad valorem: * * *

PAR. 370. Airplanes, hydroplanes, motor boats, and parts of the foregoing, 30 per centum ad valorem.

* * * * *

TITLE III

SPECIAL PROVISIONS

* * * * *

SEC. 308. That the following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty under bond for their exportation within six months from the date of importation:

* * * * *

(6) Automobiles, motor cycles, bicycles, airplanes, airships, balloons, motor boats, racing

shells and similar vehicles and craft, teams and saddle horses, all of which are brought temporarily into the United States by nonresidents for touring purposes, or for the purposes of taking part in races or other specific contests;

* * * * *

TITLE IV

CUSTOMS ADMINISTRATION, ADMINISTRATIVE PROVISIONS

PART I. DEFINITIONS

SECTION 401. When used in this title—

(a) *Vessel.*—The word "vessel" includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation in water or in water and in air.

(b) *Vehicle.*—The word "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, or through the air.

Tariff Act of 1930 (approved June 17, 1930), c. 497, 46 Stat. 590, 625, 690, 708, 761

TITLE I

DUTIABLE LIST

SECTION 1. That on and after the day following the passage of this Act; except as otherwise spe-

cially provided for in this Act, there shall be levied, collected, and paid upon all articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam), the rates of duty which are prescribed by the schedules and paragraphs of the dutiable list of this title, namely:

* * * * *

SCHEDULE 3. METALS AND MANUFACTURES OF

* * * * *

PAR. 369. (a) Automobile trucks valued at $1,000 or more each, automobile trucks and motor bus chassis valued at $750 or more each, automobile truck bodies valued at $250 or more each, motor busses designed for the carriage of more than ten persons, and bodies for such busses, all the foregoing, whether finished or unfinished, 25 per centum ad valorem.

(b) All other automobiles, automobile chassis, and automobile bodies, and motor cycles, all the foregoing, whether finished or unfinished, 10 per centum ad valorem.

* * * * *

PAR. 370. Airplanes, hydroplanes, motor boats, and parts of the foregoing, 30 per centum ad valorem. * * *

* * * * *

TITLE III

SPECIAL PROVISIONS

SEC. 308. TEMPORARY FREE IMPORTATION UNDER BOND FOR EXPORTATION.

The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application, for a further period not to exceed six months:

* * * * *

(5) Automobiles, motor cycles, bicycles, airplanes, airships, balloons, motor boats, racing shells, and similar vehicles and craft, teams and saddle horses, all of which are brought temporarily into the United States by nonresidents for touring purposes, or for the purposes of taking part in races or other specific contests;

* * * * *

TITLE IV

ADMINISTRATIVE PROVISIONS

PART I. DEFINITIONS

SEC. 401. MISCELLANEOUS.

When used in this title or in Part I of Title III—

(a) *Vessel.*—The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft.

(b) *Vehicle.*—The word "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, but does not include aircraft.

* * * * *

PART VI

MISCELLANEOUS PROVISIONS

SEC. 644. APPLICATION OF AIR COMMERCE ACT OF 1926.

The authority vested by section 7 of the Air Commerce Act of 1926 in the Secretary of the Treasury, and in the Secretary of Commerce, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, respectively, shall extend to the application in like manner of any of the provisions of this Act or of any regulations promulgated hereunder.

Air Mail Act of February 2, 1925, c. 128, 43 Stat. 805

SEC. 1. That this Act may be cited as the Air Mail Act.

SEC. 2. That when used in this Act the term "air mail" means first-class mail prepaid at the rates of postage herein prescribed.

SEC. 3. That the rates of postage on air mail shall be not less than 10 cents for each ounce or fraction thereof.

SEC. 4. That the Postmaster General is authorized to contract with any individual, firm, or corporation for the transportation of air mail by aircraft between such points as he may designate at a rate not to exceed four-fifths of the revenues derived from such air mail, and to further contract for the transportation by aircraft of first-class mail other than air mail at a rate not to exceed four-fifths of the revenues derived from such first-class mail.

SEC. 5. That the Postmaster General may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act: *Provided,* That nothing in this Act shall be construed to interfere with the postage charged or to be charged on Government operated air-mail routes.

(This Act was amended by the Acts of June 3, 1926, c. 460, 44 Stat. 692; May 17, 1928, c. 603, 45 Stat. 594; and April 29, 1930, c. 223, 46 Stat. 259.)

U. S. GOVERNMENT PRINTING OFFICE 1931

See also 40 Stat. 742, 746, 753 (Sec. 8)

44 Stat. 568, 572 (Sec. 7.)